

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

EDWARD DWYANE FIELDS,

Plaintiff,

v.

CONSENTINO GROUP, INC.

Defendants.

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Case No. 06-0439-CV-W-RED

ORDER

Now before the Court is Defendant Consentino Group Inc.'s Motion to Dismiss (#12). Plaintiff has not responded to defendant's motion, and the deadline for such response has expired. For the reasons set forth below, defendant's motion is **GRANTED**.

BACKGROUND

Plaintiff claims that Consentino, plaintiff's former employer, terminated plaintiff and denied plaintiff unemployment benefits because of plaintiff's race. Plaintiff's charge of discrimination filed with the EEOC indicates that the alleged discrimination occurred from February 5, 2005, through March 13, 2005. Plaintiff filed his charge with the EEOC in April 2006. On April 28, 2006, the EEOC denied plaintiff relief and sent plaintiff a right-to-sue letter. Plaintiff then filed suit in this Court alleging Title VII violations by Consentino. Consentino filed a motion to dismiss plaintiff's complaint because his claims were barred by the applicable statute of limitations.

DISCUSSION

In order to bring a Title VII lawsuit, a plaintiff must first file a charge with the EEOC within 300 days of the discriminatory incident. 42 U.S.C. § 200e-5(e)(1). Plaintiff admits in his complaint that the last discriminatory act occurred on March 13, 2005, but he did not file his charge with the

EEOC until more than a year later. If a plaintiff fails to timely file a charge of discrimination with the EEOC, he has not exhausted his administrative remedies and his claim is not justiciable. *See Williams v. Little Rock Mun. Water Works*, 21 F.3d 218, 222 (8th Cir. 1994). Plaintiff failed to file his charge of discrimination with the EEOC within 300 days after the alleged discriminatory act, so his suit is barred by statute.

CONCLUSION

Defendant Consentino Group Inc.'s Motion to Dismiss (#12) is **GRANTED**.

IT IS SO ORDERED.

/s/ Richard E. Dorr
RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT

DATE: November 27, 2006